Imputed Negligence.—In Union Traction Co. of Indiana *v.* Grant, 135 N. E. Rep. 486, the Supreme Court of Indiana held that to impute the negligence of one person to another, the relation between them must be one invoking the principles of agency, or the parties must be co-operating in a joint or common enterprise, or the relation between the parties must have been such that the person to whom the negligence is imputed must have had a legal right to control the action of the person actually negligent; that the negligence of the driver of a wagon furnished by the township trustees to transport children to school, under a statute requiring the trustees to furnish a wagon, resulting in the death of a child, could not be imputed to the parent, who, while having the right to avail himself of the agency, had no right to control or regulate it.

The court said:

"The driver of the conveyance was employed under authority of law by the school township, acting through the school trustee. To be sure, the plaintiff had the legal right to avail himself of this agency, but he had the right neither to employ, discharge, to enlarge or limit the scope of such employment, nor regulate the route or time schedule of such driver. To impute the negligence of one person to another, the relation between them must be one invoking the principles of agency, or the parties must be co-operating in a common or joint enterprise, or the relation between the parties must have been such that the persons to whom the negligence is imputed must have had a legal right to control the action of the person actually negligent. 1 Shearman & Redfield, Law of Negligence (6th Ed.) § 65a, et seq. None of the elements of the relation of master and servant exist between the plaintiff and the driver. The question of agency, therefore, may well be denied, under the rule relating to passengers in omnibuses concerning imputed negligence. To hold the negligence of the driver imputable to plaintiff because of their combined occupation in a common or joint enterprise, it would be necessary to hold that the plaintiff had an equal right to direct and govern the movements and conduct of the driver in respect to such negligent acts. And, in so far as the relationship between the plaintiff and such driver is concerned in this case, it must be held that the plaintiff had no legal right to control the actions of the driver in the operation of his movements. So that, in so far as the negligence of the driver of the conveyance is concerned in this case, it is not to be considered as limiting the legal right of plaintiff to damages, based upon proof of every essential element necessary thereto, committed by the defendant. Thus it has been held that the negligence of the driver of a vehicle in which he is riding, is imputed to the guest where both are engaged in a joint enterprise in which the transportation is a factor; that to establish a joint enterprise the passenger must have either express or implied right to direct the movements of the vehicle used. Robison *v.* Oregon-Washington R. & Nav. Co. (1918) 90 Or. 490, 176 Pac. 594."